

[1]

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CIVIL WRIT PETITION NO.9072/05

Jaykrant Singh **Versus** RSRTC & Anr.

DATE OF ORDER :: 10/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. B.L. Gupta, for petitioner
Mr. Ashok Bansal, for respondent

* * *

Instant petition has been filed by the workman seeking direction that interim order passed by the Tribunal in the pending application u/s.33(2)(b) of the Act, 1947 whereby it was ordered to pay 50% subsistence allowance to petitioner as per rules vide order dated 2nd November, 2000 and further thereafter, enhancing the subsistence allowance to the extent of 3/4 [75%] which too was ordered to pay by the order of Tribunal dated 28th February, 2002 has not been complied with.

It has been brought to the notice of this court that the order, by which subsistence allowance was enhanced in terms of interim order dated 28th February, 2002, was challenged by the Corporation in C.W. No.3224/02 and while disposing of writ petition on 11th November, 2002, this court stayed the operation of order dated 28th February, 2002 with the direction to Tribunal to dispose of the application filed u/s.33(2)(b) within four months.

Counsel for Corporation submits that since it could not have been disposed of, application was filed in this court seeking extension of time, but the fact still remained that the application is still pending consideration and as per information of petitioner's counsel, the matter is fixed before the Tribunal on 7th May, 2007 and pleadings in the matter are complete and the matter has been ripped up for final hearing.

Counsel for petitioner submits that even if interim order enhancing his subsistence allowance to the extent of 75% has been stayed by this court, still as per original order granting him subsistence allowance to the extent of 50% vide order dated 2nd November, 2000, the respondents are under an obligation to comply with and despite his insistence, allowance has not been paid to him.

Counsel for respondent submits that when the subsequent order has already been stayed, the original order has merged in the later order and that being so, they were not under an obligation to comply with during pendency of their application.

Without going into the dispute raised in the instant petition, I consider it proper that the very application filed by the respondent-Corporation u/s.33(2)(b) itself be disposed of which alone will serve the purpose.

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Accordingly, the writ petition stands disposed of with the direction to the Tribunal to decide the application filed by the Corporation u/s.33(2)(b) either on the date fixed i.e. 7th May, 2007 or within two months from today.

[AJAY RASTOGI], J.

FRBOHRA, JR.P.A.